



U.S. Fish & Wildlife Service

Final interim strategy on section 7 consultations for watercraft access projects that may indirectly affect the Florida manatee

Background

Manatees are a federally protected species under both the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407). Historically, collisions with watercraft are responsible for about 25 percent of all manatee deaths and about 80 percent of all human-caused mortality in manatees. Successful recovery of the manatee is greatly dependent on controlling and reducing this source of injury and mortality. In Save the Manatee Club, et al., v. Ballard, et al., Civil Action No. 00-00076, several organizations and individuals filed suit against the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers alleging violations of the Endangered Species Act, Marine Mammal Protection Act, National Environmental Policy Act, and Administrative Procedure Act. Four groups representing development and boating interests intervened. Following extensive negotiations, a settlement agreement was approved by the Court on January 5, 2001. Under the terms of the settlement, the Service agreed to implement a number of actions for manatee conservation one of which is to revise and make available for public review a draft interim strategy to improve procedures for reviewing permit applications to construct docks, ramps, and marinas in manatee habitat while developing regulations to allow for take of manatees under the Marine Mammal Protection Act.

Issue

The Service's interim strategy provides guidance to applicants for Department of the Army permits to design their watercraft access projects such that there is no increase in likelihood of manatee mortalities and injuries resulting from watercraft collisions. To reduce the likelihood of incidental take associated with any new multi-slip watercraft access projects, the Interim Strategy provides four prerequisites, that: (1) adequate speed zones must exist in areas anticipated to have increased watercraft traffic as a result of the proposed project; (2) signage is adequate to ensure that boaters are aware of the existing speed zones; (3) enforcement in the vicinity of the proposed development is, or with project conservation measures will be, sufficient to prevent watercraft collisions with manatees; and (4) these measures be in place prior to implementation of the project. The Service believes that increased manatee speed zone enforcement is the primary conservation measure through which proposed projects could reduce the incidental take associated with watercraft collisions to an unlikely to occur level.

The State of Florida, through the Florida Fish and Wildlife Conservation Commission, has reassigned 23 law enforcement officers and hired 25 additional officers to increase and improve enforcement of manatee protection laws, including manatee speed zones. The Commission has also reorganized 313 existing law enforcement officers in addition to the increase in officers listed above to refocus a portion of their activities toward manatee protection. Furthermore, the State has allocated \$2 million for those officers willing to work overtime which translates into additional hours of manatee protection. Finally, the State is also considering adding a number of new officers for manatee protection next year.



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The Service believes that the State's Initiative removes the need for implementation of the contributions for increased law enforcement. Based on our analysis, the State's Initiative will cover approximately 370,000 watercraft access projects (= boat slips) over 32 coastal counties where manatees occur for the next ten years. On average, the construction of approximately 5,000 slips is authorized annually in Florida's waters. With the State's Initiative, law enforcement will be provided up-front and on a guaranteed annual basis versus a temporally distributed deployment of efforts under the draft interim strategy. We believe this increased early-on deployment prior to MMPA regulations promulgation is far superior to the phased-in deployment that would have occurred under the draft interim strategy. The State's Initiative will result in a more effective means to address the indirect effects of watercraft access projects on manatees.

The State's Initiative has ensured that there will be long-term enforcement of manatee speed zones throughout Florida, eliminating the need for the Service to assess a contribution or fee from permit applicants as a conservation measure to minimize manatee mortality. The Corps will continue to consult with the Service to ensure that the four factors mentioned above are fulfilled prior to applicants receiving a permit for their project. The State's initiative ensures that speed zone enforcement in these areas is sufficient to prevent watercraft collisions from occurring as a result of the project.

Presently, a number of applicants, in accordance with the draft interim strategy, have either executed agreements with local law enforcement agencies or have contributed funds to the Manatee Conservation Fund in order to provide enforcement efforts sufficient to prevent watercraft collisions to manatees from occurring as a result of their projects. These agreements have been structured to operate as long as there are funds for them to provide the increased law enforcement for the projects they are associated with; according to the draft interim strategy, this is a ten-year period.

The effectiveness of the State's committed efforts will be evaluated on a continuing basis by comparing watercraft-related manatee mortality data in areas to previous rates of mortality. If the Service and the Commission determine at any time that these enforcement efforts are not meeting their intended objectives, then the agencies will coordinate their efforts to rectify the situation. Monitoring implementation and effectiveness will determine the need to continue, to extend the scope of, to change elements of, and/or to add new components to the enforcement.

Status

We have forwarded the final interim strategy document for publication in the Federal Register. The document reflects our findings on the conditions under which we could determine that a proposed dock, ramp or marina is unlikely to have adverse effects on manatees or their habitat.

Questions

If you have any questions or need assistance, please contact Kalani Cairns at the South Florida Ecological Services Office at 561/562-3909, extensions 240.